

PUBLIC CHAPTER NO. 724

SENATE BILL NO. 3590

By Burchett

Substituted for: House Bill No. 3626

By Tindell, Strader, Campfield, Fitzhugh, Dunn, DuBois

AN ACT to amend Tennessee Code Annotated, Title 55 and Title 62, Chapter 19, relative to certain public auctions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-19-101, is amended by adding the following language as new, appropriately designated subdivisions:

(_) "Public automobile auction" means offering motor vehicles for sale to the highest bidder where buyers are members of the public by any motor vehicle dealer licensed to sell used motor vehicles, and which dealer is licensed as a public automobile auctioneer by the Tennessee Auctioneer Commission; provided, that no public automobile auction as herein defined shall otherwise limit the auctioning of used motor vehicles exclusively to licensed motor vehicle dealers or their duly authorized agents;

() "Public automobile auctioneer" means any individual who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving the same, by the means or process of auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase or exchange of goods, including motor vehicles;

SECTION 2. Tennessee Code Annotated, Section 62-19-102(a), is amended by adding the following language as a new subdivision:

(3) Act as, or advertise or represent to be a public automobile auctioneer unless such person is duly licensed as a public automobile auctioneer, and as a motor vehicle dealer under the provisions of Title 55, Chapter 17, Part 1.

SECTION 3. Tennessee Code Annotated, Section 62-19-111, is amended by adding the following language as a new subsection:

(s) Any individual who desires a license as public automobile auctioneer shall submit an application to the commission on the prescribed form. The application shall be accompanied by a

nonrefundable examination fee as set by the commission, and satisfactory proof that the applicant has:

- (1) Reached at least twenty-one (21) years of age;
- (2) Served as an auctioneer for a period of two (2) years;
- and
- (3) Successfully completed, in addition to the education required by subdivision (a)(2), thirty (30) hours of more rigorous classroom instruction in automobile auctioneering approved by the commission.

SECTION 4. Tennessee Code Annotated, Title 62, Chapter 19, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 62-19-128.

(a) Public automobile auctions shall be licensed and regulated by the Tennessee Auctioneer Commission and the Tennessee Motor Vehicle Commission when engaged in the sale of motor vehicles.

(b) The following are minimum requirements for licensed public automobile auctions:

- (1) The public automobile auction shall have a letter of compliance with local ordinances from the local zoning authority;
- (2) The public automobile auction shall have garage keepers legal liability insurance in an amount not less than five hundred thousand dollars (\$500,000);
- (3) The public automobile auction shall have a surety bond of fifty thousand dollars (\$50,000) issued by a licensed bonding company;
- (4) The public automobile auction shall have a compiled financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application and shall furnish a copy of the same to the commission along with any changes to the statement;
- (5) The public automobile auction shall have a minimum net worth of at least one hundred thousand dollars (\$100,000);
- (6) The public automobile auction shall have a business telephone in the auction company name. For purposes of this subdivision (b)(6), cellular telephones are not acceptable;

(7) All signs shall be visible, and a permanent professional business sign shall be installed and have letters which are at least eight inches (8") tall;

(8) The public automobile auction shall hold a current business tax license as required by local applicable law;

(9) The public automobile auctioneer shall obtain and have displayed on its premises a valid motor vehicle dealer license from the Tennessee Motor Vehicle Commission; and

(10) The public automobile auction shall obtain and have displayed on its premises a valid license from the Tennessee Auctioneer Commission.

(c) Prior to a motor vehicle being subject to a public automobile auction, the public automobile auctioneer shall verify that such motor vehicle has a clean and unencumbered title, by obtaining a valid motor vehicle title history from the Department of Revenue or if such motor vehicle is registered in a state other than Tennessee, the appropriate titling agency in such other state.

(d) All public automobile auctions must take place at the established place of business listed on the motor vehicle dealer license.

(e) The public automobile auction shall not sell new or unused motor vehicles or vehicles with a Manufacturer's Statement of Origin.

(f) The public automobile auctioneer shall take possession of and retain title to each motor vehicle offered for sale at the auction. If the sale is finalized on a motor vehicle, the owner of the vehicle shall sign the title over to the public automobile auctioneer who shall then sign the title over to and deliver the title to the buyer on the date of the sale. If a sale of the vehicle is not made, then the unsigned title shall be returned to the owner of the vehicle who offered the vehicle for sale at the auction. At all times, the public automobile auction shall be deemed the seller of the motor vehicle with the same duties and responsibilities as other licensed motor vehicle dealers.

SECTION 5. Tennessee Code Annotated, Section 55-17-102, is amended by adding the following language as new, appropriately designated subdivisions:

(_) "Public automobile auction" means offering motor vehicles for sale to the highest bidder where buyers are members of the public by any motor vehicle dealer licensed to sell used motor vehicles, and which dealer is licensed as a public automobile auctioneer by the Tennessee Auctioneer Commission; provided, that no public automobile auction as herein defined shall otherwise limit the auctioning of used motor vehicles exclusively to licensed motor vehicle dealers or their duly authorized agents;

() "Public automobile auctioneer" means any individual who, for a fee, commission, or any other valuable consideration, or with the intention or expectation of receiving the same, by the means or process of auction or sale at auction, offers, negotiates, or attempts to negotiate a listing contract, sale, purchase or exchange of goods, including motor vehicles;

SECTION 6. Tennessee Code Annotated, Section 55-17-109, is amended by adding the following as a new subsection thereto:

(d) Public automobile auctions shall be licensed and regulated by the Tennessee Auctioneer Commission and the Tennessee Motor Vehicle Commission when engaged in the sale of motor vehicles.

SECTION 7. Tennessee Code Annotated, Section 55-17-114(b)(1), is amended by adding the following as new subdivisions thereto:

(P) Prior to a motor vehicle being subject to a public automobile auction, the public automobile auctioneer shall verify that such motor vehicle has a clean and unencumbered title, by obtaining a valid motor vehicle title history from the Department of Revenue or if such motor vehicle is registered in a state other than Tennessee, the appropriate titling agency in such other state.

(Q) All public automobile auctions must take place at the established place of business listed on the motor vehicle dealer license.

(R) The public automobile auction shall not sell new or unused motor vehicles or vehicles with a Manufacturer's Statement of Origin.

(S) The public automobile auctioneer shall take possession of and retain title to each motor vehicle offered for sale at the auction. If the sale is finalized on a motor vehicle, the owner of the vehicle shall sign the title over to the public automobile auctioneer who shall then sign the title over to and deliver the title to the buyer on the date of the sale. If a sale of the vehicle is not made, then the unsigned title shall be returned to the owner of the vehicle who offered the vehicle for sale at the auction. At all times, the public automobile auction shall be deemed the seller of the motor vehicle with the same duties and responsibilities as other licensed motor vehicle dealers.

SECTION 8. The Tennessee Auctioneer Commission is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 9. For the purpose of promulgating rules, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2009, the public welfare requiring it.

PASSED: March 26, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 10th day of April 2008



PHIL BREDESEN, GOVERNOR